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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 29th day of May, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

H.R.R.P. Nos. 750, 801, and 802 /1997

In H.R.R.P. No. 750

Sri Jethmal,  
r/a No.171, Police Road,  
Bangalore-2

..Petitioner

(By Sri Suresh S. Joshi, Advocate)

-Vs-

1. M.G. Narayan,  
s/o M.G. Gangadhara Sa;
2. M.G. Eswara;
3. M.G. Govardhan;
4. M.G. Vinayak

..Respondents

All are residing at No.80,  
Mamulpet, Bangalore

(By Sri M.V. Raghunathachar, Advocate)

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H.R.R.P. is filed praying to quash the order dated 31-3-1997 passed in HRC No.31/89 on the file of the XVIII Addl. Judge, Court of Small Causes, Bangalore, allowing the petition filed u/s 21(1) (h) of KRC Act.

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In H.R.R.P. No. 801/1997

R. Kiran Kumar Jain,  
No.168, Police Road,  
Ranasinghpet,  
Bangalore

..Petitioner

(By Sri Shekar Shetty, Advocate)

-Vs-

1. M.G. Narayan;
2. M.G. Eswara;
3. M.G. Govardhan;
4. M.G. Vinayak

Respondents 1 to 4 are  
sons of M.G. Gangadhara Rao,  
r/o No.80 Mamulpet,  
Bangalore;

5. Shri Shantilal Jain,  
Shanthi Bankers,  
No.173/1, Police Road,  
Ranasinghpet,  
Bangalore-53;
6. Sri R. Yeshwantaraj Jain,  
Maharaja Time Centre,  
T.Ramarao's Complex,  
Chickpet,  
Bangalore-53;
7. Sri R. Ashok Kumar Jain,  
Mutha Bankers, 73/2,  
Police Road, Bangalore-53

.. Respondents

(By Sri M.V. Raghunatha, Adv., for R1 to 4)

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H.R.R.P. is filed praying to quash the order dated 31-3-1997, passed in HRC No.815/89 on the file of the XVIII Addl. Judge, Court of Small Causes, Bangalore, allowing the petition filed U/s 21(1) (h) of KRC Act.

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In H.R.R.P. No. 802 /1997

Shri Dhanaraj,  
father's name not known,  
r/at No.170 Police Road,  
Bangalore

..Petitioner

(By Sri S. Shekar Shetty, Advocate)

-Vs-

1. M.G. Narayan;
2. M.G. Eswara;
3. M.G. Govardhan;
4. M.G. Vinayak

..Respondents

Respondents 1 to 4 are  
sons of M.G. Gangadhara Rao,  
r/o No.80, Mamulpet,  
Bangalore

(By Sri M.V. Raghunathachar, Advocate)

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H.R.R.P. is filed praying to quash the order dated 31-3-1997, passed in HRC No.33/1989 on the file of the XVIII Addl. Judge, Court of Small Causes, Bangalore, allowing the petition filed under section 21(1) (h) of KRC Act.

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These H.R.R.Ps are coming on for admission this day, the Court made the following:-

O R D E R

These three petitions arise out of H.R.C.Nos.31, 815 and 33 of 1989. They relate to premises Nos.171, 168 and 170 respectively of Police Road, Bangalore. The petitioners in these petitions are the tenants of the said premises. The common respondents 1 to 4 are the landlords. Respondents 5 to 7 in H.R.R.P.No.801/1997 are formal parties who do not have any interest in the subject matter of the petitions.

2. The landlords filed the said three petitions for eviction of the respective tenants under proviso (h) to Section 21(1) of the Karnataka Rent Control Act, 1961. The said three eviction petitions were allowed by a common order dated 31-3-1997 and the tenants have been directed to vacate and handover possession within four months from the date of the order. Feeling aggrieved, petitioners have filed these petitions.

RMR

3. The Court below has held that the landlords have proved that their need is bona fide and reasonable and that greater hardship will be caused to the lands if orders of eviction are not made in their favour.

4. When these matters came up for consideration, the parties negotiated for a settlement whereby the three tenants can be accommodated in a portion of the new building proposed to be constructed by the landlords in premises Nos.168 to 171, Police Road i.e., the three premises which are the subject matter of these petitions and premises No.169. The landlords have applied for and obtained sanction of plan vide No.LP:301/88-89 (marked as Ex.P-9 in the trial Court), a copy of which has been produced by the landlords with a memo. The said plan contemplates construction of a lodging complex in the premises with two shops on the eastern side of the ground floor of the new building <sup>(They do not face the Road)</sup> The said two shops measure 11' x 9'6" and 11' x 9'9". After negotiations, the landlords on the one hand and the three tenants on the other, have agreed that the said two proposed shops should be constructed as

RMR

three shops, each measuring 11' x 6'. It is also agreed that the northernmost shop i.e., next to the staircase should be given to the tenant in H.R.C. No.815/1989; the next shop i.e., the middle shop should be given to the tenant in H.R.C. No.33/1989 and the southern shop shall be given to the tenant in H.R.C. No.31/1989, *after reconstruction.*

5. The tenants <sup>had</sup> expressed an apprehension that having regard to the fact that as the sanction is only for construction of two shops, there may be some difficulty for constructing three shops and delivery of possession to them after construction might be delayed. In view of the same, the landlords sought a clarification from the Bangalore City Corporation and the Superintending Engineer (West) of the Corporation by his communication No. LP:301/88-89, dated 20-11-1997, has informed one of the landlords that the two shops sanctioned in the ground floor of the proposed building can be converted into three shops by effecting internal changes, provided the total area of the two shops is not changed. What is agreed is conversion of the said two shops into three shops without increasing the total area of the two shops. The

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proposal that has been put forth and agreed to ~~among~~  
~~between~~ the parties is in consonance with the  
sanctioned plan and the clarification given by the Corporation.

6. In view of the above, the impugned orders of eviction ~~is~~ <sup>are</sup> not interfered with. However, the revision petitions are disposed of recording the following arrangement and agreement between the parties:-

(a) Each of the petitioners shall vacate and deliver up vacant possession of the respective shop in their occupation within a period of six months from this date;

(b) The lands shall demolish the said shops and construct a new building or at least complete that portion where the shops are shown and deliver back the newly constructed shops measuring ~~of~~ 11' x 6' to each of the <sup>free</sup> tenants within a period of one year from the date of delivery by all the three tenants;

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(c) The rent and terms of the tenancy shall be mutually agreed among the parties;

(d) The tenants shall file affidavits undertaking to vacate the premises within six months, within fifteen days from this date;

(e) The landlords shall file an undertaking to construct and deliver the new shops to the three tenants, within fifteen days from this date.

Sd/-  
JUDGE

Bnr/-